

REMARKS

This Application has been reviewed carefully in light of the Final Office Action mailed December 29, 2003 ("Office Action"). Claims 1-37 were pending in the Application and stand finally rejected. Applicants amend independent Claims 1, 8, 17, 24, and 31 to include various limitations of Claims 2-5, 9-12, 18-21, 25-27, 30, and 32-35, which Applicants now cancel. Applicants amend Claim 13 to correct typographical errors. Applicants add new Claims 38-48, which are fully supported by the specification as originally filed.

Rejections - 35 U.S.C. §103

The Examiner finally rejects Claims 1-37 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 2002/0001302 A1, which issued to Pickett ("Pickett"), in view of newly cited reference U.S. Patent No. 6,100,882, which issued to Sharman et al. ("Sharman"). The introduction of a newly cited reference may only be used to a limited extent to maintain a final rejection. *See* M.P.E.P. §2144.03(D). Furthermore, to establish obviousness of a claimed invention under §103, all claim limitations must be taught or suggested by the prior art. M.P.E.P. §2143.03.

Applicants independent Claim 1, as amended, recites:

A method for communicating voice and text associated with a packet-based voice communications session comprising:
receiving voice information from a local participant in a packet-based voice communications session having at least one remote participant;
converting the voice information into text;
generating a first stream of packets encoding the text;
generating a second stream of packets encoding the voice information;
communicating the first stream of packets to the remote participant using transmission control protocol (TCP); and
communicating the second stream of packets to the remote participant using user datagram protocol (UDP);
wherein the packet-based voice communications session comprises an Internet protocol (IP) telephony communications session.

Applicants respectfully submit that *Pickett* and *Sharman* fail to teach or suggest every element of this Claim.

Among other aspects of Claim 1, *Pickett* fails to teach or suggest:

- generating a first stream of packets encoding the text;
- generating a second stream of packets encoding the voice information;
- communicating the first stream of packets to the remote participant using transmission control protocol (TCP); and
- communicating the second stream of packets to the remote participant using user datagram protocol (UDP).

Regarding these elements, the Examiner cites to *Pickett*'s discussion of "speech to text conversion (paragraph [0297]), and digital stream coding (paragraph [0373]) and packetizing (paragraph [0380])." *Office Action*, page 6. The Examiner also states that "Pickett further suggests that VoIP technique uses IP address and DUP [sic] or TCP packet . . . (paragraph [0374] and [0388])." *Office Action*, page 7. However, paragraphs [0373], [0374], [0380], and [0388] each concern the processing of voice signals only. Furthermore, these portions of *Pickett* simply fail to disclose the recited claim language.

The introduction of *Sharman* may only be used to a limited extent if the Examiner maintains a final rejection. *See* M.P.E.P. §2144.03(D). Thus, Applicants respectfully request the Examiner to reconsider and withdraw the finality of the *Office Action* if the Examiner uses *Sharman* for reasons other than to support the prior rejection. *Id.* However, even considering *Sharman*, its introduction fails to provide the elements of Applicants' Claim 1 not shown by *Pickett*. Thus, for at least these reasons, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of Claim 1. For analogous reasons, Applicants respectfully request reconsideration and withdrawal of the rejection of independent Claims 8, 17, 24, and 31.

Claims 6, 7, 13-16, 22, 23, 28, 29, 36, and 37 depend from and therefore incorporate the limitations of various independent claims shown above to be allowable over *Pickett* and *Sharman*. Thus, for at least the same reasons discussed above, Applicants respectfully request the Examiner to reconsider and withdraw the rejection of these claims.

New Claims

Applicants respectfully request the Examiner to consider new Claims 38-48. Claim 38 is an independent claim, while Claims 39-48 depend from various independent claims. Applicants respectfully submit that these claims are fully supported by the specification as

originally filed and incorporate additional elements patentably distinct from *Pickett* and *Sharman*.

CONCLUSION

Applicant has made an earnest attempt to place the Application in condition for allowance. For the foregoing reasons, and for other reasons clearly apparent, Applicant respectfully requests full allowance of all pending claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of the Application in any manner, the undersigned attorney for Applicant stands ready to conduct such a conference at the convenience of the Examiner.

Applicants enclose a check for \$86.00 to cover the cost of filing one (1) additional independent claim. The Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of BAKER BOTT S L.L.P.

Respectfully submitted,

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Date: February 26, 2003

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